

AFFIDAVIT

I, Gerald Scott Roye, being duly sworn and deposed, state the following:

INTRODUCTION

1. I am a Special Agent with United States Immigration and Customs Enforcement ("ICE"), and have been so employed since May of 2005. I am assigned to the Cyber-Crimes/Fraud Investigations Group where I have worked on a number of investigations relating to the possession, receipt, and distribution of child pornography. As part of my basic agent training, I have received specialized instruction in the area of child pornography investigations.
2. In connection with my official duties, I investigate criminal violations of federal statutes, including violations of Title 18, United States Code, Section 2252(a)(2) (receipt of child pornography) and 2252(a)(4)(B) (possession of child pornography).
3. As a result of my participation in this investigation, receiving information from other law enforcement officials, and analyzing documents and records, I am familiar with the circumstances surrounding the facts detailed in this affidavit.
4. The information contained in this affidavit is not, however, an exhaustive account of everything I know about this case. It, rather, only contains the facts that I believe are necessary to establish probable cause to believe that DAVID A. LEWIS violated Title 18, United States Code, Section 2252(a)(2) and Title 18, United States Code, Section 2252(a)(4)(B) .

PROBABLE CAUSE

5. Beginning at a time unknown, in the Eastern District of Louisiana, DAVID A LEWIS, DOB 03/25/1954, a 55 year-old male, the defendant herein, did knowingly receive and attempt to receive visual depictions involving the use of a minor engaging in sexually explicit conduct, and

that the visual depictions were of such conduct, and that the visual depictions had been mailed, shipped, or transported in interstate or foreign commerce, or which contains materials which had been mailed or so shipped or transported, by any means including by computer, for which a person can be charged with a criminal offense in violation of Title 18, United States Code, Section 2252(a)(2).

6. ICE received a lead from an ICE initiative that an email account subscribed to by DAVID A. LEWIS was discovered during the course of an investigation into a website known to ICE to exclusively provide images of child pornography for a fee. Initial investigative efforts revealed that LEWIS had previously been convicted of the crime of child molesting in July of 1985. On or about April 21, 2009, ICE Special Agent Scott Royce and Senior Special Agent Eric Delaune conducted a consensual interview with DAVID A. LEWIS at his place of residence 157 Mandy Drive, Avondale, Louisiana 70049. At approximately 0630 hours ICE Special Agent Scott Royce informed LEWIS of his rights per the Miranda warning, and received a verbal and written waiver of rights from LEWIS. Shortly thereafter, LEWIS signed a consent form to allow an ICE Computer Forensics Agent (CFA) to search his computer.

7. When LEWIS was questioned by Special Agent Royce as to his involvement with child pornography, LEWIS admitted to having viewed and downloaded images of child pornography. LEWIS stated that he mostly views images of child pornography through advertisements sent to his email account. Lewis also stated that he had been viewing child pornography for approximately ten years. ICE Special Agents explained to LEWIS that their primary concern when conducting a child pornography investigation is to make sure that there are no children being victimized. LEWIS stated that he was only viewing child pornography and that he did not have contact with any children.

8. ICE Special Agent Matthew Wright conducted an on-sight preview of LEWIS's computer.

During the course of the on-sight preview Special Agent WRIGHT observed an image he believed to be child pornography. The image Special Agent Wright viewed depicted a prepubescent female in a lascivious display of her genitals.

9. When LEWIS was questioned about the types of child pornography on his computer and the ages of the children in the pornography Lewis stated that the children in some of the images are about 12 to 13 years old. LEWIS stated that he likes to look at young thin girls with dark hair and that he likes innocent looking girls. In closing, LEWIS stated that viewing child pornography is an addiction that he wants to get over and "bottom line I'm guilty".

10. On May 4, 2009, your affiant applied for and was granted a Federal Search Warrant for LEWIS's computers and computer media seized by and consensually given to ICE. On May 6, 2009, ICE Computer Forensics Agent (CFA) James Podboy showed your Affiant images of child pornography discovered on LEWIS's computers. One such image was a picture of a prepubescent female's vagina with an erect penis in close proximity to her vagina.

11. CFA Podboy also showed your Affiant images that appeared to be uploaded from a camera onto LEWIS's computer. The uploaded pictures appeared to be of children from LEWIS's neighborhood. While not child pornography, these images refute the defendant's statement that he does not have any contact with children. One such picture features what appears to be a Hispanic boy and girl standing in front of a trash can with the number 156 painted on the trash can. There is also another picture of the same boy and girl standing on the front steps of LEWIS's residence which is recognizable to your affiant, with the house number 157 clearly visible in the photograph.

12. While reviewing the uploaded photographs with CFA Podboy your Affiant also observed pictures that appeared to be taken away from LEWIS's residence. Some of the pictures appear to have been taken at a church or religious function. There was also a picture taken of a female child at the beach and there is a picture of what appears to be a Hispanic girl washing a vehicle.

13. Based upon the above information, DAVID A. LEWIS did knowingly receive and attempt to receive visual depictions involving the use of a minor engaging in sexually explicit conduct, and that the visual depictions were of such conduct, and that the visual depictions had been mailed, shipped, or transported in interstate or foreign commerce, or which contains materials which had been mailed or so shipped or transported, by any means including by computer, for which a person can be charged with a criminal offense in violation of Title 18, United States Code, Section 2252(a)(2).

GERALD SCOTT ROYE
Special Agent
U. S. Department of Homeland Security
Bureau of Immigration and Customs Enforcement

Sworn to and subscribed before me
on this 6th day of May, 2009.

LOUIS MOORE, JR.
UNITED STATES MAGISTRATE JUDGE